

GOV S-1740: INTERNATIONAL LAW

SECTION 2 DISCUSSION SECTION: COMPLIANCE AND THE CONVENTION AGAINST TORTURE

1. Where does the Convention Against Torture (CAT) fall along the three dimensions of legalization identified by Abbott et al: obligation, precision and delegation? Why do you think the drafters of the CAT decided to design it this way?
2. Consider the mechanisms provided by the CAT for addressing compliance with the prohibition against torture. How, if at all, do these institutional characteristics and their degree of legalization affect compliance with the CAT? Note the conceptual distinction between treaty implementation and treaty compliance: to what extent do you think implementation influences the likelihood of compliance? Is there any discernible relationship between CAT implementation and compliance in the case of the U.S.?
4. What role do domestic institutions play in accounting for (non)compliance with the CAT? What role do they play in the case of the U.S.? In the case of Abu Ghraib? What role did reputation play in the case of Abu Ghraib?
5. Consider the CAT and the Abu Ghraib case in light of the different arguments made by Chayes & Chayes, and Downs et al. Do these cases support or contradict either of the views on compliance identified by these authors? How, in your opinion, will the experience of Abu Ghraib affect the effectiveness of the CAT in future cases?
6. How do governments circumvent international laws in countries like the United States where the legislative process is presumably democratic and open? Discuss with reference to Department of Justice legal opinions regarding the definition of torture under the Bush II administration, which were classified but eventually leaked. Is the interpretation of international rules inherently a 'public' exercise, as Chayes and Chayes seem to imply in their managerial theory of compliance? Should it be?
7. In light of the Abu Ghraib case, is the CAT a failure or empty rhetoric? How do you think the effectiveness of the CAT can be increased?